



Presbyterian Church of Eastern Australia Law & Advisory Committee

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Family and Community Development Committee
Parliament of Victoria
Spring Street
East Melbourne VIC 3002

Good morning:

Parliamentary inquiry into Abuse of Children by Religious and Other Non-Government Organisations

We are very pleased to see this enquiry and note your terms of reference are:

The Family and Community Development Committee is requested to inquire into, consider and report to the Parliament on the processes by which religious and other non-government organisations respond to the criminal abuse of children by personnel within their organisations, including:

1. the practices, policies and protocols in such organisations for the handling of allegations of criminal abuse of children, including measures put in place by various organisations in response to concerns about such abuse within the organisation or the potential for such abuse to occur;
2. whether there are systemic practices in such organisations that operate to preclude or discourage the reporting of suspected criminal abuse of children to State authorities; and
3. whether changes to law or to practices, policies and protocols in such organisations are required to help prevent criminal abuse of children by personnel in such organisations and to deal with allegations of such abuse.

Our submission follows.

1.0 Introduction

1.1 In June 2012 James R. P. Ogloff, Margaret C. Cutajar, Emily Mann and Paul Mullen in a recent Australian Institute of Criminology publication suggested five to ten per cent of children suffer severe sexual abuse <http://www.aic.gov.au/publications/current%20series/tandi/421-440/tandi440.aspx> This is an alarming figure and easily exceeds the highest estimates of abuse by church clergy. Obviously some of this abuse is perpetrated in their private relationships by the approx 10% of the population with active involvement in churches, and much may remain hidden. Equally obviously, some is perpetrated by leaders in churches and non-government organizations that deal with minors, and this kind of abuse is the focus of this submission.

1.2 The immediate background to the Committee being established was the many examples of child sexual abuse [CSA] that have surfaced in the Roman Catholic Church and in particular, the handling of allegations against priests in a less than transparent way, the permitting of them to be transferred to other areas without reporting their offences to the Police, and the way victim's complaints were handled. As a Bible-based Protestant Church we do not think that what is revealed in the confessional of the Roman Catholic Church is inviolable as claimed in the Catholic Catechism #2490. We recognise that this issue may be too difficult to address adequately in current circumstances. Perhaps in any case the major issue has been in the

hierarchy itself, in the failure to exercise good governance over its own representatives, moving them about when they were aware of problems. However, the Committee's focus is on the future not the past.

1.3 We think most *bona fide* Christian denominations have adopted some form of Child Protection Policy in the past decade or so that will go a long way towards limiting the incidence of sexual abuse by clergy. However there are a number of difficulties in addressing the issue of child sexual abuse in churches. There is the definition of CSA for a start, and there is the question of mandatory reporting and what follows.

1.4 Obviously, sexually suggestive language by an adult to a child may be sexual abuse, but is not an offence that in many cases would be something the Police could deal with. [Apparently the authorities are happy to allow advertising that sexualises young children, and that may be part of the problem.] There may be cases where 'grooming' occurs in one form or another before any physical act occurs. How does one deal with this at a Police level? Churches and other organisations need provisions in place to limit the possibility of these offences.

1.5 Once we move to actual assault or digital or penile penetration we are in a position where report should be made to the Police. In Victoria we understand that it is not at present mandatory for a minister or church leader to make such a report. Then there's the problem of the willingness of the victim to make a complaint, the difficulties arising from false allegations, the question of evidence that will suffice in court, and the matter of procedures in court in cases where the offence is denied. A uniform law Australia-wide on mandatory reporting is desirable, as well as court procedures that do not tend to re-traumatise the child. At the same time there need to be adequate protections against false accusations. The subject is certainly not entirely straightforward.

2.0 Protocol with minimum standards?

2.1 We said we think most established bodies have by now a Child Protection Policy by whatever name. Smaller denominations or organisations not linked in a central body may have made less progress in this area, and also community organisations where English is not the first language. We therefore think that minimum standards for a Child Protection Policy for all religious and non-government bodies working with children could be made law, but there would be practical issues. Administrative details could not be prescribed given the wide variety in organisational models, the right of distinct ecclesiastical procedures following on police investigation cannot be compromised, but the general principles could be laid down. Some suggestions of areas to cover are listed below as indicative of certainly what would be good advice. The intent, not the precise wording, is what we suggest, but note our conclusions under 3.0 below.

2.2 Every religious body and non-government organisation dealing with children or having contact with them (including social clubs) requires a written Child Protection Policy [CPP] which meets certain minimum standards. These should include –

2.2.1 A provision for a notice to be displayed in the usual and accessible place for notices indicating the contact point for reporting any instance of sexual abuse, and where a copy of the CPP may be obtained, preferably via the entity's website rather than by personal application.

2.2.2 A requirement that all leaders/workers/employees/volunteers working with children have the relevant clearance under State or other civil law regarding approval to

work with minors, and that they sign a copy of the CPP and are given a copy. They should also be able to sign a statutory declaration that they have never been involved in sexual abuse of a minor.

2.2.3 Provisions relating to persons with a previous record of sexual molestation whether or not subject to criminal conviction. Such cannot be involved in a supervisory position with children, except in the most exceptional circumstances and where the risk of reoffending will be completely eliminated by, for instance, the previous offence being low level, a requirement that the previous offender is known to be such by all leaders/fellow workers, and that he or she is always accompanied by another leader or supervisor. It may be noted that insurers normally will not cover liability arising from a known sexual offender.

2.2.4 The supervision of minors should be carried out by appropriately experienced people. Churches and bodies employing volunteers are advised not to give a supervisory role to persons who are not well known to the congregation or organisation and have not been connected with it for at least six months. When children are involved out of the sight or hearing of other responsible adults, at least two adults should supervise.

2.2.5 Leaders/employees should avoid one-to-one counselling of any minor when no one else is present or nearby, and in any case should be ready to seek specialist help where necessary.

2.2.6 To ensure that there are no outstanding issues or adverse history, receiving bodies should be careful concerning the history of those who apply for membership by profession of faith or transfer, or for employment. A certificate of good standing or a reference should not be issued to any person if there is any suspicion/allegation of sexual abuse without first investigating the matter. The result of the investigation should be duly minuted, and the certificate qualified if necessary.

2.2.7 Sexual abuse of any person is a serious offence, and sexual abuse of a minor whether or not involving sexual penetration, particularly so. Leaders/employees/volunteers must report any suspected physical or sexual abuse to the supervising authority immediately and the established procedures in the Child Protection Policy followed, and should be reminded of this obligation at least once a year. No allegation may be trivialised.

2.2.8 When a minister/church officer resigns his/her post to withdraw from ministry, retire or to accept another position, the supervisory body must first make careful and thorough enquiry of other officebearers/persons who have been working with the person as to whether there are any rumours or prejudicial reports concerning him or her, and must minute the finding.

2.2.9 In the case of women, children and vulnerable adults, the Child Protection Policy should provide for a qualified woman to be involved in the interviews, particularly in bodies which have all male office-bearers.

2.2.10 In the case of an alleged criminal offence involving inappropriate touching and or sexual penetration of a minor, procedures must involve reporting to the police even in cases where proof sufficient to obtain a conviction is unlikely, and great care must be taken to avoid any action that would compromise the police investigation.

2.2.11 A person who has a credible accusation of sexual abuse of children brought against them must be excluded from contact with children forthwith and, if a leader, from official responsibilities until the matter is determined one way or another.

3.0 Conclusions and suggestions for implementation

3.1 In regard to point 2.2.3, as a church we want to reckon with the possibility of forgiveness but even though there may be restoration of the offender we recognise sin has consequences and CSA will exclude from leadership/working with children in all but the most exceptional cases.

3.2 Further to 2.2.10, our own procedures require mandatory reporting of such abuse, but there is some concern that this may not be appropriate in every case, particularly where the complainant does not wish it. It remains a difficult point and we hope the Committee's report will address this.

3.3 The working with children check is useful in excluding convicted offenders but inadequate of itself and may even give false confidence to organisations. We see practical difficulties in mandating a detailed Child Protection Policy given the range of organisations and ethnic backgrounds. However, a measure essentially educative, that spells out recommended guidelines something like 2.2 above could be very positive. Thus:

3.3.1 A notice of recommended procedures could be included in the regular renewal of working with children checks, and over time we think it would become generally applied. This kind of advice and recommendation might fall short of actual legislation but might be easier to put in place and in practice just as useful.

3.3.2 In the Model Rules under the *Associations Incorporation Act*, under which many organisations operate, a provision could be inserted requiring the organisation to have in place a Child Protection Policy that is an item on the agenda of each AGM, so keeping the issue in the minds of the Association but leaving the formulation of the CPP to the Association. A government web site could provide several templates to assist in drawing up the CPP.

3.4 Securing uniform legislation on mandatory reporting would also be helpful.

We wish to Committee well in their deliberations,

Yours sincerely,



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